

## REMARKS

The Examiner stated that the reply to the Office Action filed December 28, 2004 is not fully responsive to the prior Office Action dated June 22, 2004 because the remarks made with newly added claims 8-11 did not explain patentability in view of the prior art of record. The requested explanation follows.

Claim 6 is canceled by this Response.

New claims 8-11, along with all the other pending claims previously addressed, are novel and non-obvious over all of the prior art of record. Neither U.S. Patent No. 5,963,916 to Kaplan ("Kaplan"), nor U.S. Patent No. 5,855,008 to Goldhaber et al. ("Goldhaber"), alone or in combination, teaches the limitations of new claims 8-11. Likewise, none of the other references of record teach all of the limitations of the pending claims, including claims 8-11.

Claim 8 recites, in pertinent part, "receiving user input defining a plurality of music search parameters including at least one attribute, wherein at least one attribute involves a situational quality of the user requested music."

Claim 9 recites, in pertinent part, "receiving user input defining a plurality of music search parameters including at least one attribute, wherein at least one attribute involves a sound quality vector of the user requested music."

Claim 10 recites, in pertinent part, "receiving user input defining a plurality of music search parameters including at least one feature vector, wherein at least one feature vector describes music content other than the genre of the music."

Claim 11 recites, in pertinent part, "receiving user input defining a plurality of musical content attributes, wherein at least one attribute describes the mood of the music."

The vectors recited in certain of these new claims are described in detail in another application, Application Serial No. 09/533,045, entitled "Method for Creating A Database for Comparing Music Attributes," which was incorporated by reference in its entirety on page 8 of the present application, a portion of which was also brought into the present application in the last reply filed on December 28, 2004.

Kaplan and Goldfarb do not teach searching based upon a musical attributes including at least one that involves a situational quality, one that involves a sound quality vector, or one that describes the mood of the music, as required by claims 8, 9, and 11 respectively. Nor do Kaplan

and Goldfarb teach a feature vector that describes music content other than the genre of the music, as required by claim 10. Kaplan simply teaches categorizing and searching music according to "hot zones," musical categories, or genres. The "hot zones" in Kaplan allow users to perform searches in particular music categories, such as classical music, or by composer, or by conductor or by whether the music is instrumental, or ensemble. Kaplan at Col. 14 lines 4-15. These categories can be seen in Figure 21 of Kaplan. Kaplan, also teaches searching by Genres 221-241, which can be seen in Figures 11-12, reproduced below. The Genres include: "Pop/Dance" genre (hot zone 221), a "Rock/Alternative" genre (hot zone 222), a "Heavy Metal" genre (hot zone 223), a "R&B Soul" genre (hot zone 224), a "Rap" genre (hot zone 225), a "Classical" genre (hot zone 226), a "Jazz" genre (hot zone 227), a "Movies/Shows" genre (hot zone 228), a "Country" genre (hot zone 229), a "New Age" genre (hot zone 230), a "World" genre (hot zone 231), a "Blues" genre (hot zone 232), a "Gospel/Religious" genre (hot zone 234), a "Vocalist" genre (hot zone 235), a "Spoken Word" genre (hot zone 236), a "Children's" genre (hot zone 237), a "Comedy/Novelty" genre (hot zone 238), a "Christmas/Seasonal" genre (hot zone 239), a "Reggae/Ska" genre (hot zone 240), and a "Latin" genre (hot zone 241) Kaplan at

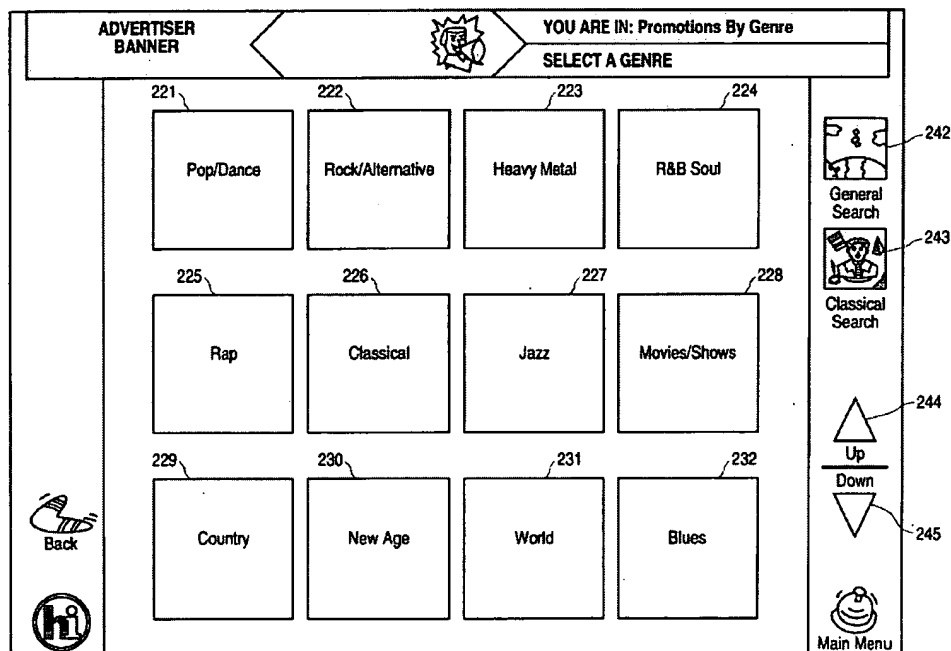
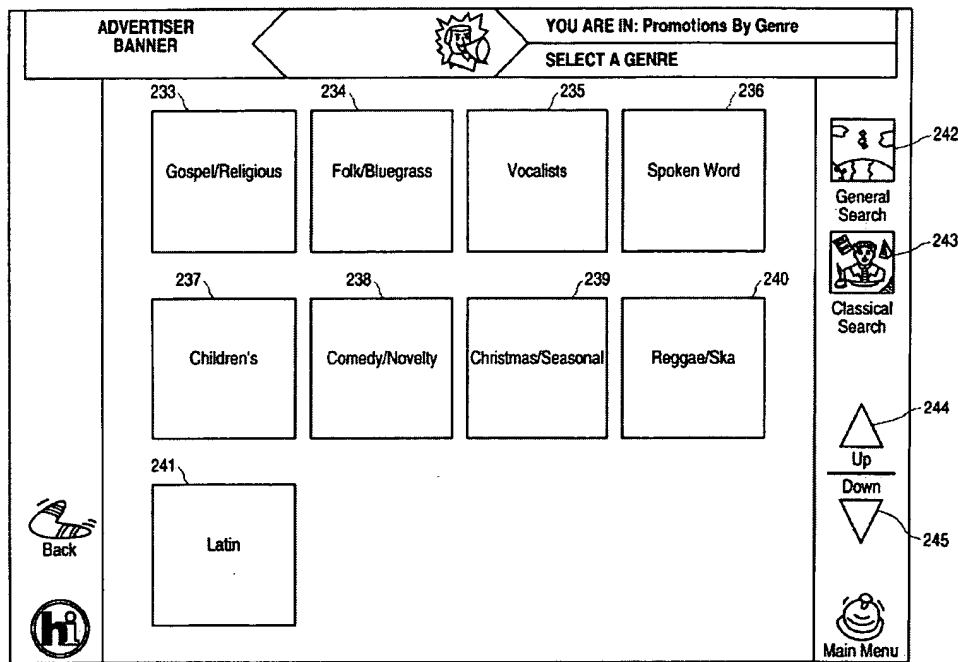


FIG. 11

Col. 14, lines 26-34.



**FIG. 12**

This type of categorization by Kaplan was recognized in the Background section of the present application as limiting the number of choices available for a consumer when selecting music. Page 1, lines 20-23. In particular, the Background indicates:

One reason for the limited number of choices is that conventionally music is classified only in restricted number of classes, for example, music may be stored at a retail store under the name of the artist, genre (Rock, blues, Jazz etc..) label, and title of the album etc. Page 1, lines 23-25.

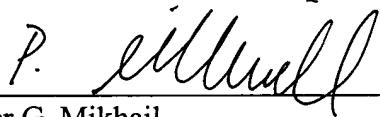
In contrast, searching as defined by the specific limitations of claims 8-11 allows for a more specific search, which should produce content more tailored to the consumer's desires and more to the liking of the consumer than if the search is just based on genre, artist or label etc... None of the specific criteria recited in claims 8-11 are taught by Kaplan and Goldhaber.

Goldhaber relates to brokering (buying and selling) the attention of consumers and teaches an approach for distributing advertising and other information. See Goldhaber Abstract. Goldhaber in no way teaches the specific limitations of claims 8-11.

Conclusion

Accordingly, it is believed that this application is now in condition for allowance and an early indication of its allowance is solicited. However, if the Examiner has any further matters that need to be resolved, a telephone call to the undersigned attorney at 415-318-1163 would be appreciated.

Respectfully submitted,



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5/6/05  
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